

Kelso City Council Agenda

Regular Meeting, 7:00 pm
February 19, 2013
City Hall, Council Chambers
203 S. Pacific
Kelso, WA 98626



Special accommodations for the handicapped and hearing impaired are available by special arrangement through the City Clerk's Office at 360-423-0900

Invocation: Dave Davis, Salvation Army

Call to Order:

Roll Call to Council Members:

Approve Minutes:

February 5, 2013 – Regular Council Meeting

Presentations:

1. Waste Control
2. Hazel Street Railroad Crossing
3. Kelso Housing Authority
4. Library Annual Report

Consent Items:

1. Liquor License New Applications
 - a. Sora Sushi Restaurant, 503 Allen Street
 - b. Gyros Gyros of Kelso, 351 Three Rivers Drive, Suite 205
2. Liquor License Special Occasion
 - a. B.P.O. Elks Kelso Lodge #1482/Lady of Elks, 900 Ash Street
3. Liquor License Renewals
 - a. Daily Store, 1012 N. Pacific Ave.
 - b. Sunrise Market, 1215 S. 6th Ave.
 - c. Chuck E. Cheese's, 351 Three Rivers Dr.
4. Closeout
 - a. CDBG Planning Grant
 - b. Talley Way Paving Project
5. Auditing of Accounts
January 2013 / February 2013

Citizen Business:

Council Business:

1. Property Acquisition Approval

Kelso City Council Agenda

Regular Meeting, 7:00 pm
February 19, 2013
City Hall, Council Chambers
203 S. Pacific
Kelso, WA 98626



Action/Motion Items:

1. Ordinance, 1st Reading
 - a. Amending KMC 12.20 Parks
2. Ordinance, 1st Reading
 - a. Credit Card Use
3. Ordinance, 1st Reading
 - a. Interfund Loan
4. Ordinance, 2nd Reading
 - a. KMC 2.04 City Council
5. Resolution
 - a. 7th Avenue Street Vacation
6. Resolution
 - a. Travel Reimbursement Policy

Other Items:

- City Manager Report
- Staff/Dept Head Reports
- Council Reports
- Other Business
- Executive Session

KELSO CITY COUNCIL
7:00 P.M.

FEBRUARY 5, 2013
REGULAR MEETING

Mayor David Futcher led the flag salute. The Regular Meeting of the Kelso City Council was called to order by Mayor David Futcher. Councilmembers in attendance were: Futcher, Lefebvre, Archer, Myers, McDaniel, Roberson, and Schimmel.

Minutes: Upon motion by Councilmember Schimmel, seconded by Councilmember McDaniel, 'Approve the Minutes of the 1/22/13 Special Council Workshop and the 1/15/13 Regular Meeting,' motion carried, all voting yes.

PUBLIC HEARING – CDBG Planning Grant – Closeout N. Kelso Sewer Groundwater Study:

Mayor Futcher opened the Public Hearing at 7:01 p.m. Public Works Director David Sypher commented that a public hearing is required to closeout a CDBG project. This gives the public the opportunity to discuss any issues or concerns they may have regarding the project. There being no comments from the public, Mayor Futcher closed the public hearing at 7:02 p.m.

PRESENTATION:

Kelso Police Department 2012 Annual Report: Chief of Police Andrew Hamilton gave an informative power point presentation. The presentation showed a comparison of the calls for service from the previous years. It showed that there was an overall increase in calls for service from 2011. It showed that domestic violence arrests were up and D.U.I. arrests were down. He commented that the police department works hard on grant applications for financial assistance for traffic safety, school safety and training programs. Chief Hamilton spoke of various community events that the Kelso Police Department coordinates. These events provide safety awareness, education on fighting crime, and assistance to low income families during the holiday season. The Kelso Police Department is in partnership with Cowlitz 2 Fire & Rescue and the other law enforcement agencies in the county. These partnerships provide officers with more training, experience, and mutual aid.

CONSENT AGENDA:

1. **Parks Board Reappointments:** a) Scott Derosier, b) Dan Jones, c) Pamela Jo Enbusk
2. **Contract Award:** Traffic Signal Maintenance – City of Longview
3. **Liquor License Renewals:** a) Kelso AM/PM, 1700 Allen St. East, b) B.P.O. Elks Kelso Lodge, 900 Ash St.
4. **Walk-on:** Authorize Purchase – Police vehicle for budget year 2013

Upon motion by Councilmember Roberson, seconded by Councilmember Myers, 'Approve the Consent Agenda' motion carried all voting yes.

CITIZEN BUSINESS:

Sandy Nanney, 613 S. 7th Street, spoke about parking concerns on Cedar and 9th St. and the road condition of S. 7th St. She commented about a limit on how many vehicles should be allowed for rental households. She handed out a signed petition, with pictures, regarding the road condition on S. 7th St. She commented that the Public Works Department has been notified, but the situation has not improved. Mayor Fitcher commented that, due to the budget, the streets have to be repaired in order of priority.

Jim Hill, 1100 N 22nd Avenue, Stated a public apology to City Manager Steve Taylor. Mr. Hill spoke about the visitor center benefiting the whole county. He commented that by making the visitor center more technologically appealing it will help attract businesses in search of new locations for their facilities.

COUNCIL BUSINESS:

Visitors Center Update: City Manager Steve Taylor briefed Council on the Rural Economic Development Grant application with Cowlitz County. The County's decision for the allocation of the grant funds is scheduled for February 12, 2013. He commented that depending on the outcome of the decision from the County Commissioners, direction will be required from Council and it is possible that it will happen fairly quickly.

MOTION ITEMS:

Resolution No. 13-1078 – Adopting Council Rules: The Deputy Clerk read the proposed resolution by title only. Upon motion by Councilmember Roberson, seconded by Councilmember McDaniel, 'Pass Resolution No. 13-1078, 'A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KELSO ADOPTING RULES AND PROCEDURES OF THE KELSO CITY COUNCIL.' Councilmembers Fitcher, McDaniel, Schimmel, Lefebvre, Roberson, and Myers voted yes. Councilmember Archer voted no. Motion passed 6 to 1.

Resolution No. 13-1079 – Declaring Items Surplus: The Deputy Clerk read the proposed resolution by title only. Upon motion by Councilmember Myers, seconded by Councilmember Lefebvre, 'Pass Resolution No. 13-1079, ' A RESOLUTION OF THE CITY OF KELSO, WASHINGTON, DECLARING CERTAIN PERSONAL PROPERTY OF THE CITY OF KELSO TO BE SURPLUS AND DIRECTING THE DISPOSITION THEREOF,' motion carried, all voting yes.

Ordinance No. (1st Reading) – Amending KMC 2.04 City Council: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember McDaniel, seconded by Councilmember Lefebvre, 'Pass on 1st reading, 'AN ORDINANCE OF THE CITY OF KELSO AMENDING KELSO MUNICIPAL CODE 2.04 CITY COUNCIL

TO AMEND THE MEETING TIME FOR REGULAR MEETINGS AND TO REMOVE CERTAIN COUNCIL PROCEDURES,' Councilmembers Futchter, McDaniel, Schimmel, Lefebvre, Roberson, and Myers voted yes. Councilmember Archer voted no. Motion passed 6 to 1.

Ordinance No. 13-3791 – LS Networks Franchise Agreement: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember Lefebvre, seconded by Councilmember Myers, 'Adopt Ordinance No. 13-3791 'AN ORDINANCE GRANTING TO LIGHTSPEED NETWORKS, INC., DBA LS NETWORKS, DBA "LSN" AN OREGON CORPORATION, A FRANCHISE TO CONSTRUCT, OPERATE & MAINTAIN A TELECOMMUNICATIONS SYSTEM OR FACILITIES WITHIN THE RIGHTS OF WAY OF THE CITY OF KELSO WASHINGTON,' motion carried, all voting yes.

MANAGER'S REPORT:

Steve Taylor: No report.

COUNCIL REPORTS:

Kim Lefebvre: No report

Rick Roberson: No report.

Dan Myers: No report.

Todd McDaniel: No report.

Gary Archer: No report.

Gary Schimmel: No report.

David Futchter: No report.

EXECUTIVE SESSION:

The Council convened into Executive Session at 8:03 p.m. to discuss property acquisition and labor negotiations. The Executive Session is expected to last approximately 30 minutes. The attorney was present and no action will be taken.

The Council reconvened into Regular Session at 8:35 p.m.

There being no further business, Mayor Futchter adjourned the meeting at 8:35 p.m.

MAYOR

CITY CLERK



KELSO HOUSING AUTHORITY

www.kelsoha.org

1415 S 10TH AVENUE

KELSO, WA 98632

360-423-3490



The Kelso Homes housing for families consists of a total of 50 units clustered together as duplex units. The duplexes consist of (4) one bedroom units, (24) two bedroom units, (20) three bedroom units and (2) four bedroom units. The units are clustered within a neighborhood area of south Kelso and are located on public streets. The units were constructed in 1952.



The Cowlitz Villa is senior housing consisting of a total of 50 plex-style units clustered together within an area of south Kelso. The complex contains 8 studio units, 30 one bedroom units, 12 two bedroom units and a community center facility called Gragg Hall. The units were constructed in 1964.



The Chinook Apartment building is a four story facility in the downtown commercial core of Kelso. Retail and office functions occupy the ground floor facing the street with residential on the upper 3 levels containing a total of 21 units. The Chinook is a Shelter+Care project providing for the housing needs of previously homeless, chronically mentally ill citizens who are working with mental health support agencies.



The Columbia Apartment building is a four story masonry facility in the downtown Kelso commercial core. Retail and office functions occupy the ground floor facing the two streets with residential on the upper 3 levels containing a total of 29 units. The Columbia provides for the housing needs of mentally ill citizens who are working with mental health support agencies.



SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

276 VOUCHERS
CURRENTLY SERVING
KELSO FAMILIES

The Section 8 Housing Choice Voucher (HCV) assistance program is funded by the Department of Housing and Urban Development (HUD) of the federal government and administered by the Kelso Housing Authority in Kelso.

The purpose of the HCV program is to provide housing opportunities to extremely low income citizens. The program offers mobility to eligible families because they may search for suitable housing anywhere in the Kelso Housing Authority's jurisdiction and may also be eligible to move under portability to other Housing Authority's jurisdictions.

02-13 jrl



AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE: New Liquor License
Application

Agenda Item No: _____

Dept. of Origin: Finance

Date of Meeting: February 19, 2013

Originator: Brian Butterfield *BS*

PRESENTED BY: Brian Butterfield

City Attorney: _____

City Manager: _____

Agenda Item Attachments:

See attached request of Liquor License Application:

Sora Sushi Restaurant

503 Allen St.

SUMMARY STATEMENT:

Various departments have been requested to give their input. Comments will be available by the City Council. The Finance Staff recommends this request be acted on by the City Council.



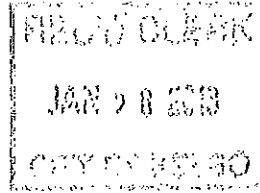
NOTICE OF LIQUOR LICENSE APPLICATION

RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-3075
Customer Service: (360) 664-1600
Fax: (360) 753-2710
Website: www.liq.wa.gov

TO: MAYOR OF KELSO
RE: NEW APPLICATION

DATE: 1/24/13

UBI: 603-266-453-001-0001



License: 086545 - 1K County: 08
Tradename: SORA SUSHI RESTAURANT
Loc Addr: 503 ALLEN ST
KELSO WA 98626-4105
Mail Addr: PO BOX 807
VENETA OR 97487-0807
Phone No.: 541-221-8980 SHU ZHEN CHEN

APPLICANTS:
SORA SUSHI RESTAURANT INC.
CHEN, SHU ZHEN
1984-07-11

Privileges Applied For:
BEER/WINE REST - BEER/WINE

As required by RCW 66.24.010(8), the Liquor Control Board is notifying you that the above has applied for a liquor license. You have 20 days from the date of this notice to give your input on this application. If we do not receive this notice back within 20 days, we will assume you have no objection to the issuance of the license. If you need additional time to respond, you must submit a written request for an extension of up to 20 days, with the reason(s) you need more time. If you need information on SSN, contact our CHRI Desk at (360) 664-1724.

- | | YES | NO |
|---|--------------------------|--------------------------|
| 1. Do you approve of applicant ? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you approve of location ? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken? | <input type="checkbox"/> | <input type="checkbox"/> |
| (See WAC 314-09-010 for information about this process) | | |
| 4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based. | | |

DATE

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE

AGENDA SUMMARY SHEET

Business of the City Council

City of Kelso, Washington

SUBJECT TITLE: New Liquor License
Application

Agenda Item No: _____

Dept. of Origin: Finance

Date of Meeting: February ¹⁹ 5, 2013

Originator: Brian Butterfield 

PRESENTED BY: Brian Butterfield

City Attorney: _____

City Manager: _____

Agenda Item Attachments:

See attached request of Liquor License Application:

Gyros Gyros of Kelso 351 Three Rivers Dr Ste 205

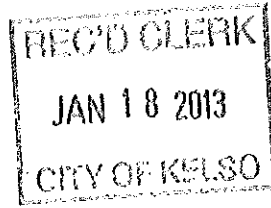
SUMMARY STATEMENT:

Various departments have been requested to give their input. Comments will be available by the City Council. The Finance Staff recommends this request be acted on by the City Council.



NOTICE OF LIQUOR LICENSE APPLICATION

RETURN TO:



WASHINGTON STATE LIQUOR CONTROL BOARD

License Division - 3000 Pacific, P.O. Box 43075

Olympia, WA 98504-3075

Customer Service: (360) 664-1600

Fax: (360) 753-2710

Website: www.liq.wa.gov

TO: MAYOR OF KELSO
RE: NEW APPLICATION

DATE: 1/14/13

UBI: 603-019-382-001-0001

License: 410634 - 1K County: 08

Tradename: GO!CALENDARS GO!GAMES

Loc Addr: 351 THREE RIVERS DR STE 205

KELSO

WA 98626-3122

Mail Addr: 351 THREE RIVERS DR STE 219

KELSO

WA 98626-3122

Phone No.: 360-430-9543 ANDREA HORTON

APPLICANTS:

GYROS GYROS OF KELSO, A PARTNERSHIP

HORTON, ANDREA MARIE

1970-06-13

HORTON, CHRISTOPHER DALE

1973-08-26

Privileges Applied For:

BEER/WINE REST - BEER/WINE

As required by RCW 66.24.010(8), the Liquor Control Board is notifying you that the above has applied for a liquor license. You have 20 days from the date of this notice to give your input on this application. If we do not receive this notice back within 20 days, we will assume you have no objection to the issuance of the license. If you need additional time to respond, you must submit a written request for an extension of up to 20 days, with the reason(s) you need more time. If you need information on SSN, contact our CHRI Desk at (360) 664-1724.

- | | YES | NO |
|---|--------------------------|--------------------------|
| 1. Do you approve of applicant ? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you approve of location ? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken? | <input type="checkbox"/> | <input type="checkbox"/> |
| (See WAC 314-09-010 for information about this process) | | |
| 4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based. | | |

DATE

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE

AGENDA SUMMARY SHEET
Business of the City Council
City of Kelso, Washington

SUBJECT TITLE: Liquor License
Special Occasion

Agenda Item No: _____

Dept. of Origin: Finance

Date of Meeting: February 19, 2013

Originator: Brian Butterfield 

PRESENTED BY: Brian Butterfield

City Attorney: _____

City Manager: _____

Agenda Item Attachments:

B.P.O. Elks Kelso Lodge #1482/Lady of Elks
March 9, 2013, 5 p.m. – 11 p.m.

900 Ash Street

SUMMARY STATEMENT:

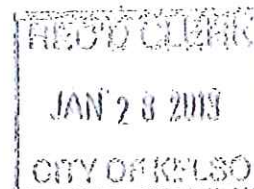
Various departments have been requested to give their input. Comments will be available by the City Council. The Finance Staff recommends this request be acted on by the City Council.

Lwa

WASHINGTON STATE LIQUOR CONTROL BOARD--License Services
3000 Pacific Ave SE - P O Box 43075
Olympia WA 98504-3075

TO: MAYOR OF KELSO

January 25, 2013



SPECIAL OCCASION # 353621

B.P.O. ELKS KELSO LODGE #1482/LADY OF ELKS
900 ASH ST
KELSO, WA 98626

DATE: MARCH 09, 2013

TIME: 5 PM TO 11 PM

PLACE: KELSO LONGVIEW ELKS/BANQUETRM, 900 ASH ST, KELSO

CONTACT: RHONDA SANDRETTO, 360-673-7738

SPECIAL OCCASION LICENSES

- * ☐ License to sell beer on a specified date for consumption at specific place.
- * ☐ License to sell wine on a specific date for consumption at a specific place.
- * ☐ Beer/Wine/Spirits in unopened bottle or package in limited quantity for off premises consumption.
- * ☐ Spirituous liquor by the individual glass for consumption at a specific place.

If return of this notice is not received in this office within 20 days from the above date, we will assume you have no objection to the issuance of the license. If additional time is required please advise.

1. Do you approve of applicant? YES ☐ NO ☐
2. Do you approve of location? YES ☐ NO ☐
3. If you disapprove and the Board contemplates issuing a license, do you want a hearing before final action is taken? YES ☐ NO ☐

OPTIONAL CHECK LIST	EXPLANATION	YES	NO
LAW ENFORCEMENT	_____	YES <input type="checkbox"/>	NO <input type="checkbox"/>
HEALTH & SANITATION	_____	YES <input type="checkbox"/>	NO <input type="checkbox"/>
FIRE, BUILDING, ZONING	_____	YES <input type="checkbox"/>	NO <input type="checkbox"/>
OTHER:	_____	YES <input type="checkbox"/>	NO <input type="checkbox"/>

If you have indicated disapproval of the applicant, location or both, please submit a statement of all facts upon which such objections are based.

DATE SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE

AGENDA SUMMARY SHEET

Business of the City Council

City of Kelso, Washington

SUBJECT TITLE: Liquor License
Renewal(s)

Agenda Item No: _____

Dept. of Origin: Finance

Date of Meeting: February 19, 2013

Originator: Brian Butterfield *BB*

PRESENTED BY: Brian Butterfield

City Attorney: _____

City Manager: _____

Agenda Item Attachments:

See attached request for Liquor License Renewal(s):

Daily Store	1012 N. Pacific Ave
Sunrise Market	1215 S. 6 th Ave
Chuck E. Cheese's	351 Three Rivers Dr.

SUMMARY STATEMENT:

Various departments have been requested to give their input. Comments will be available by the date of the City Council Meeting. The Finance Staff recommends this request be acted on by the City Council.

C091080-2

WASHINGTON STATE LIQUOR CONTROL BOARD
LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF KELSO
(BY ZIP CODE) FOR EXPIRATION DATE OF 20130531

DATE: 02/07/2013

	LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1.	FAMILY DAILY STORE, LLC	DAILY STORE 1012 PACIFIC AVE N KELSO	355162	GROCERY STORE - BEER/WINE
2.	THREE GOOD BROTHERS, L.L.C.	SUNRISE MKT 1215 S 6TH AVE KELSO	352966	GROCERY STORE - BEER/WINE
3.	CEC ENTERTAINMENT, INC.	CHUCK E. CHEESE'S 351 THREE RIVERS DR KELSO	087025	BEER/WINE REST - BEER/WINE

AGENDA SUMMARY SHEET

Business of the City Council

City of Kelso, Washington

SUBJECT TITLE:

Closeout Community Development Block Grant
Program Planning Grant

Agenda Item: _____

Dept. of Origin: Public Works

For Agenda of: February 19, 2013

PRESENTED BY:

David M. Sypher, PE
Public Works Director

Cost of Item: \$35,234

City Manager: Steve Taylor

AGENDA ITEM ATTACHMENTS:

SUMMARY STATEMENT:

The City of Kelso received a \$24,000 planning only grant from the federal Community Development Block Grant (CDBG) Program administered by the Washington State Department of Commerce. The \$24,000 was applied toward a \$35,234 groundwater study in North Kelso. This work evaluated and confirmed groundwater conditions encountered during previous construction projects in the area. The results of the study will assist preparation of future construction documents and mitigate risks related to dewatering.

FINANCIAL SUMMARY:

The City received a \$24,000 grant. The balance, \$11,234, was paid from the Sewer Capital Fund.

RECOMMENDED ACTION:

Staff recommends council make a motion to close the planning only grant.

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE:

Closeout of Talley Way Paving Project
Project No. 581204

Agenda Item: _____

Dept. of Origin: Public Works - Operations

For Agenda of: February 19, 2013

PRESENTED BY:

David M. Sypher, P.E.
Public Works Director

Cost of Item: \$ 46,788.77

City Manager: Steve Taylor

AGENDA ITEM ATTACHEMENTS:

Final Payment Summary

SUMMARY STATEMENT:

Council awarded the contract for the Talley Way Paving Project to Lakeside Industries during the October 16, 2012 council meeting in the amount of \$97,336. Approximately one-half of the project was done on November 27, 2012. Due to inclement weather the total project was not completed before the end of the year; and due to budget restrictions we were not able to carry the project over into 2013. The project consisted of removing 1,990 cubic yards of pavement grindings in several sections of south Talley Way in the south bound lane then placing 343 tons of hot mix asphalt in its place. No work was done in the north bound lane for the reasons mentioned above.

FINANCIAL SUMMARY:

Original Contract Amount: \$ 97,336.00
Approved Change Orders: \$ (2,203.00)
Quantity Under runs: \$ (48,344.23)
Retainage Amount: \$ 2,339.44
Final Contract Amount: \$ 46,788.77
Change in Contract Amount: \$ (50,547.23)

RECOMMENDED ACTION:

Staff recommends Council make motion to close out the Talley Way Paving Project and authorize the release of retainage upon receipt of final approval from the State of Washington Department of Labor and Industries, Department of Revenue, and Employment Security Department.

Talley Way Asphalt Repair
Project # 581204
Lakeside Industries, Inc.

FINAL PAYMENT SUMMARY February 8, 2013

Item	Description	Contract			This Estimate			Previous Estimate			Total to Date		
		Quan	Unit	Price	Amount	Quantity	Pay	Amount	Quantity	Pay	Quantity	Amount	Pay
1	Mobilization	1	LS	\$ 2,930.00	\$ 2,930.00	1	LS	\$ 2,930.00	1	LS	1	LS	\$ 2,930.00
2	Project Temporary Traffic Control	1	LS	\$ 1,035.00	\$ 1,035.00	1	LS	\$ 1,035.00	1	LS	1	LS	\$ 1,035.00
3	Flaggers	40	HR	\$ 53.00	\$ 2,120.00	22.5	HR	\$ 1,192.50	22.5	HR	22.5	HR	\$ 1,192.50
4	Unsuitable Foundation Excavation Including Haul	50	CY	\$ 15.00	\$ 750.00		CY	\$ -	0	CY	0	CY	\$ -
5	Crushed Surfacing Top Course	100	TON	\$ 20.00	\$ 2,000.00		TON	\$ -	0	TON	0	TON	\$ -
6	Pavement Repair Excavation Including Haul	750	SY	\$ 13.00	\$ 9,750.00	750	SY	\$ 9,750.00	750	SY	750	SY	\$ 9,750.00
7	HMA for Pavement Repair	250	TON	\$ 83.00	\$ 20,750.00	250	TON	\$ 20,750.00	250	TON	250	TON	\$ 20,750.00
	Schedule 1 Subtotal				\$ 39,335.00			\$ -				\$ 35,657.50	\$ 35,657.50
ADDITIVE 1													
8	Project Temporary Traffic Control	1	LS	\$ 500.00	\$ 500.00	1	LS	\$ 500.00	1	LS	1	LS	\$ 500.00
9	Flaggers	10	HR	\$ 53.00	\$ 530.00	10	HR	\$ 530.00	10	HR	10	HR	\$ 530.00
10	Unsuitable Foundation Excavation Including Haul	25	SY	\$ 15.00	\$ 375.00		SY	\$ -	0	SY	0	SY	\$ -
11	Crushed Surfacing Top Course	25	TON	\$ 20.00	\$ 500.00		TON	\$ -	0	TON	0	TON	\$ -
12	Pavement Repair Excavation Including Haul	311	SY	\$ 13.00	\$ 4,043.00	351.5	SY	\$ 4,569.50	352	SY	352	SY	\$ 4,569.50
13	HMA for Pavement Repair	104	TON	\$ 83.00	\$ 8,632.00	93.19	TON	\$ 7,734.77	93.2	TON	93.2	TON	\$ 7,734.77
	Additive #1 Subtotal				\$ 14,580.00			\$ 13,334.27				\$ 13,334.27	\$ 13,334.27
ADDITIVE 2													
	Description	Quan	Unit	Price									
14	Project Temporary Traffic Control	1	LS	\$ 500.00	\$ 500.00		LS	\$ -	0	LS	0	LS	\$ -
15	Flaggers	10	HR	\$ 53.00	\$ 530.00		HR	\$ -	0	HR	0	HR	\$ -
16	Unsuitable Foundation Excavation Including Haul	25	SY	\$ 15.00	\$ 375.00		SY	\$ -	0	SY	0	SY	\$ -
17	Crushed Surfacing Top Course	25	TON	\$ 20.00	\$ 500.00		TON	\$ -	0	TON	0	TON	\$ -
18	Pavement Repair Excavation Including Haul	255	SY	\$ 16.00	\$ 4,080.00		SY	\$ -	0	SY	0	SY	\$ -
19	HMA for Pavement Repair	85	TON	\$ 83.00	\$ 7,055.00		TON	\$ -	0	TON	0	TON	\$ -
	Additive #2 Subtotal				\$ 13,040.00			\$ -				\$ -	\$ -
ADDITIVE 3													
20	Project Temporary Traffic Control	1	LS	\$ 500.00	\$ 500.00		LS	\$ -	0	LS	0	LS	\$ -
21	Flaggers	10	HR	\$ 53.00	\$ 530.00		HR	\$ -	0	HR	0	HR	\$ -
22	Unsuitable Foundation Excavation Including Haul	25	SY	\$ 15.00	\$ 375.00		SY	\$ -	0	SY	0	SY	\$ -
23	Crushed Surfacing Top Course	25	TON	\$ 20.00	\$ 500.00		TON	\$ -	0	TON	0	TON	\$ -
24	Pavement Repair Excavation Including Haul	234	SY	\$ 16.00	\$ 3,744.00		SY	\$ -	0	SY	0	SY	\$ -
25	HMA for Pavement Repair	78	TON	\$ 83.00	\$ 6,474.00		TON	\$ -	0	TON	0	TON	\$ -
	Additive #3 Subtotal				\$ 12,123.00			\$ -				\$ -	\$ -

AGENDA SUMMARY SHEET

Business of the City of Kelso City of Kelso, Washington

SUBJECT TITLE:

Approve Settlement Agreement regarding condemnation action with Raymond & Jusupovic, for the furniture world property and authorize the City Manager enter stipulated orders in conformance with the Settlement Agreement and a temporary lease agreement in conformance with the Settlement Agreement.

Agenda Item: _____

Dept. of Origin: City Attorney, Public Works

For Agenda of: February 19, 2013

Cost of Item: \$2,400,750.00

City Manager: Stephen Taylor

PRESENTED BY: Janean Parker, City Attorney

AGENDA ITEM ATTACHMENTS:

1. Stipulated Order regarding Public Use and Necessity re Cowlitz County Cause No. 12-2-01221-1
2. Stipulated Order and Decree of Appropriation re Cowlitz County Cause No. 12-2-01221-1
3. Lease Agreement between Kelso and Quality Designs Inc. III for temporary lease of premises

SUMMARY STATEMENT:

As a part of the West Main Realignment project, the City negotiated to purchase several parcels necessary for the construction. The City was unable to negotiate a purchase with the Furniture World property owners and the City initiated a condemnation action in November of last year to condemn the property. In an effort to settle that lawsuit, the parties met for mediation on February 5th and reached a settlement agreement that is subject to the City Council approval. The terms of that settlement agreement are that the City shall pay a price of \$2,400,000 for the acquisition of all right and title to all parcels of the property (along with a mandatory \$750 appraisal evaluation fee that is required by statute.) These amounts are to be paid into the registry of the Court on or before March 5, 2013. Further, the tenants may remain in the property under a leaseback agreement for nominal rent until June 30, 2013.

If approved, this settlement will resolve the one remaining property required for construction and allow the City to go out for bids and begin constructing the project this summer.

With approval of the settlement agreement, the remaining documents are necessary to conclude the lawsuit and temporarily lease the property back to the tenant.

FINANCIAL SUMMARY:

The settlement amount would be \$2,400,000. This exceeds the City's appraisal amount; however, this amount is reasonable in light of the review of the property owner's appraisal, litigation risk, and the added certainty for timing of the project. The project is funded in large part by federal and state grant funds, which include acquisition costs. The amount expended for the payment for this property will be reimbursed by these federal grant funds.

OPTIONS:

This property is the largest parcel affected and is in the very center of the realignment project. The project can not proceed as planned without this parcel. In order to proceed with the project the options are to agree to this settlement price and resolve the lawsuit now or to continue to litigate for a jury determination on just compensation.

RECOMMENDED ACTION:

Staff recommends that the City approve the settlement agreement and the associated documents:

MOVE TO: Approve Settlement Agreement regarding condemnation action with Raymond & Jusupovic, for the furniture world property and authorize the City Manager enter stipulated orders in conformance with the Settlement Agreement and a temporary lease agreement in conformance with the Settlement Agreement.

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8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
9 IN AND FOR COWLITZ COUNTY

10 City of Kelso, a Municipal Corporation,

11 Petitioner,

12 v.
13

14 Raymond & Jusupovic, LLC, A
15 Washington Limited Liability Company;
16 Quality Designs, Inc. III, A Washington
17 Corporation; Bank of America, N.A.;
18 United States Small Business
19 Administration of Fresno; McMahan's
20 Furniture of Reno, Inc., a Nevada
21 Corporation;

22 Respondents.
23
24

NO. 12-2-01221-1

STIPULATION AND AGREED ORDER
FOR ADJUDICATING
PUBLIC USE AND NECESSITY

25 Petitioner, the City of Kelso, by and through its City Attorney, and appearing
26 Respondents, by and through their respective attorneys of record, stipulate and agree to
27 the entry of the following Findings of Fact and Order Adjudicating Public Use and
28 Necessity.

I. Findings of Fact

Based upon the agreement of the parties, the Court now makes and enters the
following Findings of Fact:

1 1. Petitioner, the City of Kelso, is a municipal corporation organized and
2 existing as a Charter Code City under the Option Municipal Code, Title 35A of the
3 Revised Code of Washington

4 2. Respondent, Raymond & Jusupovic, LLC, is the owner in fee of the real
5 property and the improvements subject to this Petition in Eminent Domain.
6

7 3. The remaining appearing Respondents claim a leasehold interest, deed
8 of trust, or other real or potential interest in the real property and improvements subject to
9 this Petition in Eminent Domain

10 4. On November 6, 2012, the Kelso City Council adopted Ordinance No. 12-
11 3776, which authorized the acquisition of the property and improvements described
12 therein for a public road improvement project known as the West Main Realignment
13 Project (the "Project"). The Project includes the public uses of improving and realigning
14 West Main Street in west Kelso from the west city limits at West Cowlitz Way to the west
15 end of the Allen Street Bridge at 1st Street, including moving the primary alignment from
16 West Main to Catlin Street. The improvements include constructing curb, gutter, and
17 sidewalk within the public right of way. The purposes of Project are to alleviate traffic
18 congestion, improve traffic flow, improve safety and mobility for vehicles, cyclists, and
19 pedestrians, stimulate economic revitalization, and to accommodate increased traffic
20 projections.
21

22 5. Before undertaking the Project, the City, in coordination with Washington
23 State Department of Transportation, the Cowlitz County Council of Governments, the City
24 of Longview, and Cowlitz County, conducted traffic analysis and studies and reviewed
25 community input, including community meetings and council meetings in 2009 and 2010,
26
27
28

1 to consider several alternative design concepts for the Project. The final road alignment
2 was adopted by the City Council in March 2010.

3 6. As adopted by the Kelso City Council, Ordinance 12-3776 declares that
4 the acquisition of the property and improvements described therein, including parcels is
5 necessary for the construction of the Project.
6

7 **II. Order**

8 WHEREFORE, having made and entered the above Findings of Fact, the Court
9 now Orders, Adjudges and Decrees:

10 1. The land, improvements, and property rights described in the Petition for
11 Eminent Domain will be taken for the public use of public street improvements including
12 the realignment of a portion of West Main.
13

14 2. The land, improvements, and property rights appropriated as set forth in
15 the Petition in Eminent Domain are necessary for the implementation of those public
16 uses.

17 DATED this ____ day of February, 2013.

18
19 _____
20 Judge

21 Presented by:

22
23 By _____
24 Janean Z. Parker
25 WSBA No. 30577
26 Attorneys for Plaintiff, City of Kelso
27 203 South Pacific, Suite 217
28 P.O. Box 819
Kelso, WA 98626
(360) 748-7200

1 Copy Received; Agreed and Approved for Entry;
2 And Notice of Presentment Waived:

3 Rogers Deutsch & Turner, PLLC

4
5 By: _____

6 Daryl Deutsch,
7 WSBA 11003

8 Attorneys for Respondent, Raymond and Jusupovic, LLC

9
10 By: _____

11 Daryl Deutsch,
12 WSBA 11003

13 Attorneys for Respondent, Quality Designs Incorporated

14
15 McEwen Gisvold, LLP

16
17 By: _____

18 Barry L. Groce,
19 WSBA 16512

20 Attorneys for Respondent, Bank of America, N.A.

21 United States Attorney

22
23 By: _____

24 Anastasia D. Bartlett
25 WSBA 7142

26 Attorneys for Respondent Small Business Administration

27
28 McMahon's Furniture of Reno

By: _____

Name:
Authorized Agent, Pro Se

CITY OF KELSO, a Municipal Corporation,)	
)	
Petitioner,)	NO. 12-2-01221-1
vs.)	
)	
RAYMOND & JUSUPOVIC, LLC, A)	
Washington Limited Liability Company;)	STIPULATED JUDGMENT AND DECREE
QUALITY DESIGNS, INC. III, A)	OF APPROPRIATION
Washington Corporation; BANK OF)	
AMERICA, N.A.; UNITED STATES SMALL)	
BUSINESS ADMINISTRATION OF)	
FRESNO; MCMAHAN'S FURNITURE OF)	
RENO, INC., a Nevada Corporation;)	
)	
Respondents.)	

Judgment Creditor	Raymond & Jusupovic, LLC, et al
Judgment Debtor	City of Kelso
Judgment Principle	\$2,400,000
Statutory Evaluation Fee	\$750.00
Property Appropriated	Cowlitz County Tax Parcels 22628, 22629, 22630, 22631 and 22638
Attorney for Judgment Creditor	Daryl A. Deutsch, et al
Attorney for Judgment Debtor	Janean Z. Parker

1 The Petitioner and Respondent property owner Raymond and Jusupovic, LLC having executed a
2 CR2A Settlement Agreement after mediating this matter on February 5, 2013 with Judge Daniel
3 J. Berschauer, ret., and the parties having agreed to the entry of the following judgment in order
4 to implement said settlement; NOW, THEREFORE,
5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as FOLLOWS:

6 1. The sum of Two Million Four Hundred Thousand and 00/100 Dollars (\$2,400,000.00)
7 represents the cash just compensation to be paid by Petitioner for the fee taking and
8 appropriation of the real property legally described on Exhibit No. 1 (the "Condemned
9 Property").

10 2. That pursuant to RCW 8.25.020 Petitioner is also obligated to pay a statutory
11 evaluation fee of \$750.

12 3. That upon entry of this Decree and Petitioner's deposit of Two Million Four Hundred
13 Thousand Seven Hundred Fifty and 00/100 Dollars (\$2,400,750.00) into the court registry,
14 Petitioner shall be the legal and equitable fee owner of the Condemned Property free and clear of
15 all claims and interests of the Respondents. These funds shall not be disbursed to any respondent
16 except upon further order of this court.

17 4. The Petitioner shall lease the Condemned Property to Respondent Quality Designs
18 Incorporated, the current occupant of the Condemned Property, in accordance with the terms of
19 the CR2A Settlement Agreement, and in accordance with the terms of a lease agreement that said
20 parties have subsequently executed.

21
22 Dated this ____ day of _____, 2013

23
24
25 _____
Honorable Judge / Court Commissioner

1 Presented by:

2 City of Kelso City Attorney

3 By: _____
4 Janean Z. Parker, WSBA No. 30577

5 Copy Received; Agreed and Approved
6 for Entry; Notice of Presentment Waived:

7 Rodgers Deutsch & Turner, PLLC

8
9 By: _____
10 Daryl A. Deutsch, WSBA No. 11003
11 Attorneys for Respondent, Raymond and
Jusupovic, LLC and Quality Designs Incorporated

12 McEwen Gisvold, LLP

13
14 By: _____
15 Barry L. Groce, WSBA No. 16512
Attorneys for Respondent, Bank of America, N.A.

16 United States Attorney

17
18 By: _____
19 Anastasia D. Bartlett, WSBA No. 7142
Attorneys for Respondent Small Business Administration

20 McMahon's Furniture of Reno

21
22 By: _____
23 Name:
24 Authorized Agent, Pro Se

COMMERCIAL LEASE

This agreement (the "Lease"), dated for reference purposes this ____ day of _____, 2013, is between the **CITY OF KELSO**, a municipal corporation of the State of Washington ("City"), and **QUALITY DESIGNS, INC. III**, a Washington Corporation ("Tenant").

In consideration of the following agreements, covenants, promises, representations and warranties, the parties agree as follows:

1. LEASED PROPERTY. The City hereby leases to Tenant, and Tenant hereby leases from City, upon the terms and conditions set forth herein, the real property and improvements thereon in Kelso, WA known as Cowlitz County Tax Parcel Nos. (i) 22628, 22629, 22630, and 22631 (commonly known as 200 West Main St.), and (ii) 22638 (commonly known as 301 Catlin Street) (the "Property"). The Property is legally described on Exhibit No. 1.

2. TERM

2.1 Lease Term. The term of this Lease shall be for the period (i) commencing on the day that the City acquires title to the Property (the "Commencement Date"), and (ii) terminating on June 30, 2013 unless sooner or later terminated as provided herein (the "Termination Date"). The Termination Date (a) may, at the option of Tenant, occur on any date prior to June 30, 2013 if Tenant gives the City no less than thirty (30) days prior written notice, or (b) shall be extended to July 31, 2013 if the City concludes, as a result of delays in the West Main Realignment Project, that it does not need possession prior thereto.

2.2 Obligations that Survive Termination. Upon termination of the Lease the City and Tenant will be released from any further obligations under the Lease except for (i) the payment of obligations that accrued prior to the Termination Date, (ii) any causes of action arising or accruing prior to the Termination Date, and (iii) any indemnification or other provisions which, by their terms, are intended to survive the Termination Date.

3. CONDITION OF PROPERTY

3.1 At Commencement. Tenant, as the occupant of the Property prior to the Commencement Date, acknowledges that it has knowledge of the condition of the plumbing, lighting, the HVAC system, the interior walls, flooring and all other elements of the Property, and accepts the Property in its "as is" condition.

3.2 Surrender of Property. The City represents that the improvements on the Property will be demolished shortly after the Termination Date. Therefore, at the Termination Date Tenant shall not be obligated to surrender the Property in a broom clean condition, or the condition that existed at the Commencement Date. Tenant, on or before the Termination Date, shall have the right but not the obligation to remove its trade fixtures, vignettes, equipment, and other personal property (collectively "Tenant's Property") from the Property. If Tenant fails to timely remove Tenant's Property from the Property then said property, absent a written agreement otherwise with the City, shall be deemed abandoned.

4. USE

4.1 Use. Tenant's primary use of the Property shall be for the sale of furniture, and for no other use without the prior written consent of the City.

4.2 Hazardous Substances. Tenant shall not bring onto the Property any hazardous substance except that Tenant, in the ordinary course of its business, shall have the right to store, use and dispose of products that are typically used in the assembly, repair, touch-up and cleaning of furniture. Tenant will indemnify and hold the City harmless from any and all damages related to the Tenant's introduction to, or storage of, hazardous substances on the Property. Tenant shall advise the City in writing immediately of any environmental concern related to Tenant's use or occupancy of the Property brought to the Tenant's attention by any private party or governmental agency or official.

5. RENT. Tenant shall pay to the City during the term of the Lease rent in the amount of One Dollar (\$1.00) per month. The parties agree that rent in this nominal amount was a term of the Settlement Agreement negotiated by the parties in the eminent domain action captioned as *City of Kelso v. Raymond and Jusupovic, LLC*, Cowlitz County Superior Court No.12-2-01221-1.

6. OTHER CHARGES PAYABLE BY TENANT

6.1 Personal Property Taxes. During the Lease Term Tenant shall pay, prior to delinquency, all personal property taxes assessed against and levied upon fixtures, furnishings, equipment and all other personal property belonging to Tenant contained in the Property. Tenant shall comply with the provisions of any law, ordinance or rule of taxing authorities which requires Tenant to file a report concerning the property located on the Property.

6.2. Utilities. Tenant shall, during the term of this Lease, pay directly to the appropriate supplier all charges for water, sanitary sewer, heat, light, power, telephone, cable, telecommunications, and other utilities supplied to the Property, and shall hold the City harmless therefrom.

6.3 Insurance

(a) Liability Insurance. Tenant, at its expense, shall maintain at all times during the term of this Lease comprehensive liability insurance in the amount of One Million and No/100 Dollars (\$1,000,000.00) minimum combined single limit coverage naming the City as an additional insured. Tenant, upon the request of the City, shall deliver a certificate of insurance establishing that (i) such insurance coverage exists, and (ii) the City be provided with no less than thirty (30) days prior written notice before such insurance may be terminated or modified.

(b) Personal Property Insurance. Tenant shall obtain and bear the expense of insuring Tenant's personal property, including but not limited to Tenant's furniture, fixtures, leasehold improvements, equipment and inventory, in the amount of full replacement costs.

(c) Waiver of Subrogation. The insurance coverage required by this section shall contain a clause whereby the insurer waives all rights of subrogation against the City with respect to losses payable under such policies. Tenant waives any and all right of recovery against the City, or against the officers, city officials, employees, agents and representatives of the City, for any loss of or damage to Tenant or its property if and to the extent that such loss or damage is subject to coverage under any insurance policy in force at the time of such loss or damage, or is supposed to be subject to such coverage per the terms of this Lease. Any applicable deductible amount shall be treated as though it were recoverable under such policies.

7. MAINTENANCE AND REPAIRS. Tenant shall, at Tenant's sole cost and expense, keep all exterior portions of the Property in a clean and safe condition during the Lease term.

8. INDEMNITY. Tenant shall indemnify, defend and hold the City harmless from any and all claims, costs and expenses, including legal fees and costs incurred by the City in the defense of any claim arising from Tenant's use of the Property, or from the conduct of its business therefrom, or arising from any negligence of its agents, contractors, employees or invitees. Tenant hereby assumes all risk of damage to property or injury to persons in or about the Property from any cause, and Tenant hereby waives all claims in respect thereof against the City, except for any claim arising out of the City negligence or willful misconduct.

9. ASSIGNMENT AND SUBLETTING. Tenant shall not assign its interest in the Lease. However, Tenant may assign its interest to a related entity so long as (i) Tenant, or the beneficial owner(s) thereof, hold a majority interest in the assignee, and (ii) the use of the Property remains the same.

10. DEFAULT

10.1 Default by Tenant. The occurrence of any of the following shall constitute a material default and breach of this Lease by Tenant:

(a) The failure by Tenant to observe or perform any of the covenants, conditions, or provisions of this Lease for a period of thirty (30) days after written notice of such default from the City to Tenant. However, if the nature of the Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences a cure within that thirty (30) day time period and thereafter diligently prosecutes the cure to completion.

(b) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within thirty (30) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Property or of Tenant's interest in this Lease, where possession is not restored to Tenant within ten (10) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Property or of Tenant's interest in this Lease;

10.2 Default by the City. The City shall not be in default unless the City fails to perform obligations required of the City within a reasonable time, but in no event later than thirty (30) days after the City's receipt of written notice by Tenant to the City specifying wherein the City has failed to perform such obligations. However, if the nature of the City's obligation is such that more than thirty (30) days are required for performance then the City shall not be in default if the City commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

10.3 Remedies. Either party, in the event of a default by the other, may exercise any right or remedy available in law or equity.

11. NOTICES. All general notices required or desired to be given by the City or Tenant hereunder shall be in writing, and shall be deemed delivered upon actual delivery, or three postal delivery days after depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed as follows:

To City: City of Kelso _____ _____ _____ _____	To Tenant: Quality Designs, Inc. III _____ _____ _____ _____
---	---

12. MISCELLANEOUS

12.1 Attorney's Fees. In the event of any litigation related to this Lease the prevailing party shall be entitled to an award of reasonable legal fees and costs.

12.2 Entire Agreement. This Lease represents the entire agreement between the City and Tenant relative to leasing of the Property.

12.3 Binding Effect. The parties agree that all provisions herein shall bind and inure to the benefit of the parties and their respective heirs, legal representatives, successors and assigns.

12.4 Authority. Each individual executing this Lease on behalf of said party represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said party.

12.5 Counterpart. This Lease may be executed in counterpart, and each counterpart constitutes an original document. Signatures transmitted electronically or by facsimile shall be deemed valid and binding on the parties.

12.6 Project Construction. The City represents, and Tenant acknowledges, that during the term of this Lease the City may be engaged in West Main Realignment Project construction work in the public right-of-way and/or adjacent and nearby parcels. Tenant acknowledges that such work may at times be disruptive to nearby businesses, and that it shall have no claim against the City related thereto.

LANDLORD CITY OF KELSO By: _____ Printed Name: _____ Title: _____ Date: _____ Approved as to Form: _____ Janean Z. Parker, City Attorney Date: _____	TENANT QUALITY DESIGNS, INC. III a Washington limited liability company By: _____ Printed Name: _____ Title: _____ Date: _____
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EXHIBIT NO. 1

PROPERTY LEGAL DESCRIPTION

February 22, 2012

PAGE 1 OF 2

RAYMOND & JUSUPOVIC LLC

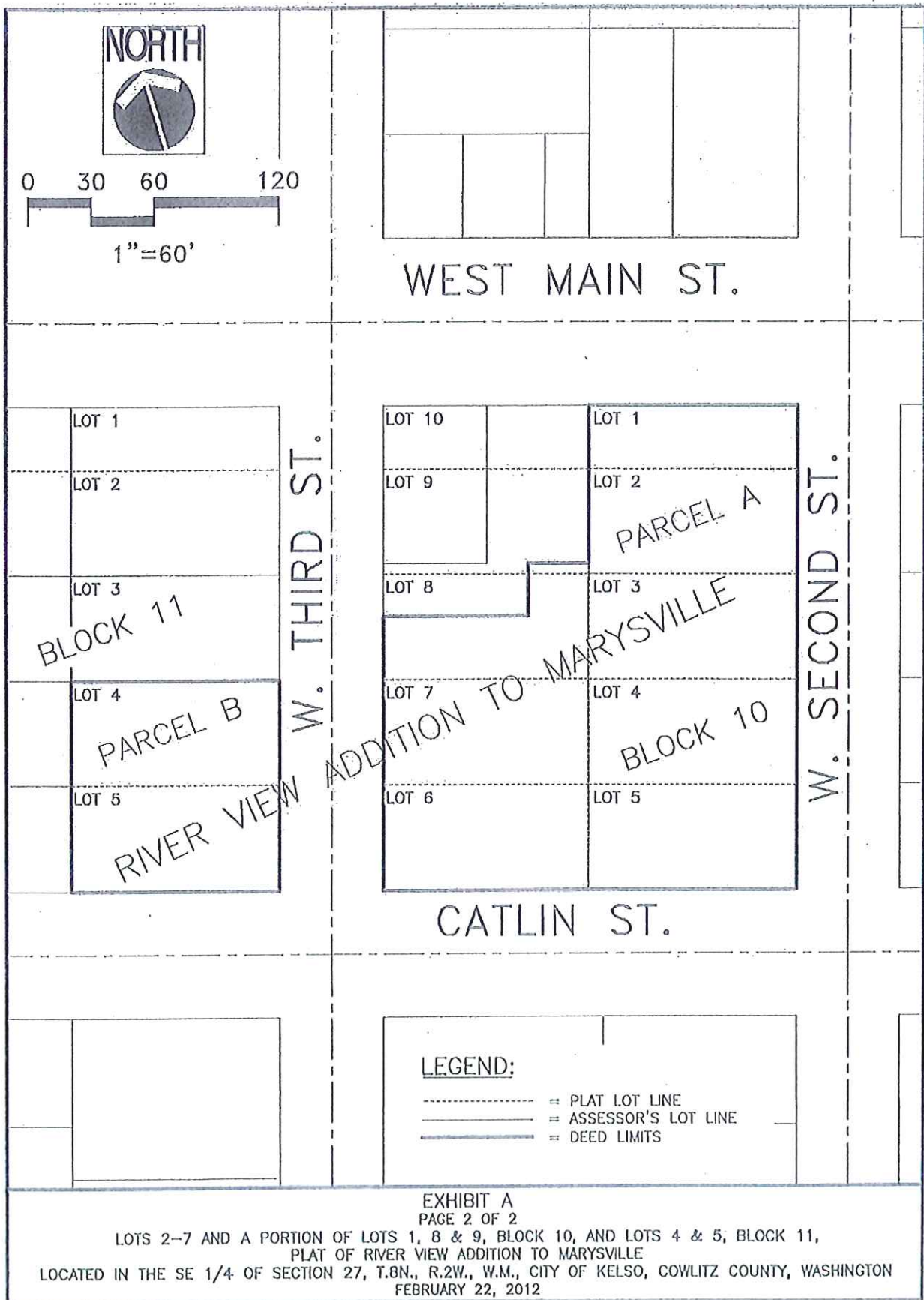
Assessor Parcel Number 22628, 22629, 22630, 22632, 22638

Auditor's File Number 3283791

Two parcels of land situated in the southeast one-quarter of Section 27, Township 8 North, Range 2 West, Willamette Meridian, in the City of Kelso, Cowlitz County, Washington, and being a portion Block 10 (Parcel 1) and Block 11 (Parcel 2), Plat of "RIVER VIEW ADDITION TO MARYSVILLE", recorded April 2, 1891, in Volume 3, Page 69, records of Cowlitz County, and being described as follows:

All of that property as described in Statutory Warranty Deed filed December 30, 2005 as Auditor's file Number 3283791, Cowlitz County Deed Records.

Contains 46,686 square feet or 1.072 acres, more or less.



AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE:

An Ordinance of the City of Kelso amending KMC 12.20 to address nuisance changes, firearms, and smoking.

Agenda Item: _____

Dept. of Origin: Public Works

For Agenda of: February 19, 2013

PRESENTED BY:

David M. Sypher, P.E.
Public Works Director

Cost of Item: _____

City Manager: Steve Taylor

AGENDA ITEM ATTACHMENTS:

Proposed Ordinance
December 20, 2012 Park Board Minutes

SUMMARY STATEMENT:

The proposed ordinance makes several changes to the park code to address issues that have arisen since the last code update. First, the changes prohibit a few nuisance items that have been an issue, namely prohibiting animal wastes and regulating noise levels. In addition, in response to concerns from second amendment groups, the prohibition on firearms in parks is removed in light of constitutional protections.

These changes were taken to, and approved by, the Park Board during their December 20, 2012 meeting.

Finally, smoking cannabis in public parks is prohibited in the same manner as smoking of tobacco for consistency in enforcement.

FINANCIAL SUMMARY:

There is no cost for the ordinance. Signage and enforcement may be costs of implementation.

RECOMMENDED ACTION:

Move to pass the ordinance on first reading.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KELSO AMENDING CHAPTER
12.20 KMC PARK CODE TO ADD PROVISIONS FOR ANIMAL WASTE
AND NOISE, AMEND FIREARM PROVISIONS, AND AMEND SMOKING
PROHIBITION TO INCLUDE CANNABIS**

WHEREAS, the City Council would like to make revisions to the City's park code to address certain nuisances within City parks and changes within state law; and

WHEREAS, City parks are gathering places for the community and promote healthy activity within the City; and

WHEREAS, the City Council would like to clarify the prohibition of animal waste within City parks by reference to the City's animal code provisions, and further address noise nuisances within the City parks; and

WHEREAS, RCW 9.41.290 preempts the field of firearms regulation except that local governments may enact laws restricting discharge where there is a "reasonable likelihood that humans, domestic animals, or property will be jeopardized;

WHEREAS, the City Council wishes to amend KMC 2.20.190 to be in compliance with State law by removing the prohibition on possession of firearms, while protecting the public from jeopardy; and

WHEREAS the City Council finds that the discharge of a firearm across, in or into any City park presents a reasonable likelihood that humans, domestic animals, or property will be jeopardized; and

WHEREAS, tobacco free environments at public gathering places promote the health, safety, and welfare of the public; and

WHEREAS, based upon community input and the desire to protect parks as public

gathering places to promote healthy and positive community norms, the City has prohibited smoking of tobacco within its parks, and with the legalization of cannabis, the City wishes to similarly prohibit the smoking of cannabis for the same reasons;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby finds that the discharge of a firearm across, in or into any park presents a reasonable likelihood that humans, domestic animals, or property will be jeopardized.

SECTION 2. That KMC 2.20 is hereby amended to provide as follows:

PARKS

Sections:

12.20.010 Title.

This chapter shall constitute the park code of the city and is declared to be an exercise of the police power of the city and to be necessary for the public peace, health, safety and welfare.

12.20.020 Constitutionality.

If any part, provision or section of this chapter is held to be void or unconstitutional, all other parts not expressly so held shall continue in full force and effect.

12.20.030 Definitions.

A. The terms used in this chapter, unless inconsistent with the context of this chapter, shall be construed as follows:

1. "Board" means the park board of the city.
2. "Director" means the director of public works.
3. "Park" means and includes all city parks, public squares, bathing beaches, bicycle paths and play and recreation grounds under the jurisdiction of the city and includes all city ballfields and all city leased or rented school or private property when the same are being used for recreation.
4. "Superintendent" means the superintendent of parks and recreation or his designee.

B. Unless inconsistent with the context of this chapter, the present, past or future tenses shall be construed to be interchangeable and words in the singular number shall be construed to include the plural.

12.20.040 Agreements with nonprofit groups for ballfield use.

The city council may from time to time authorize the director to enter into an agreement or agreements on behalf of the city, the agreements not to exceed one year in duration, with any nonprofit group, organization or association to provide for the use of park ballfields or other similar facilities for organized or league sports, by such nonprofit group, organization or association. Such agreements shall specify the conditions under which such group, organization or association may use ballfields or facilities in organized or league activities and in connection therewith may include special provisions and regulations by which such nonprofit group, organization or association may post signs advertising league sponsors or supporters, may use loudspeakers in connection with and during league activities, may sell refreshments or operate concession stands in connection with and during league activities, and may add fill material to ballfields for use in wet weather. Such agreements may authorize such nonprofit group, organization or association to charge reasonable admission fees to league games or activities. Nothing in this chapter shall be construed to prevent any such agreement or agreements.

12.20.050 Camping.

It is unlawful to camp or remain overnight in any park except at places and at such times which may be set aside for such purposes by the director.

12.20.060 Concessions.

Except as provided in this chapter, it is unlawful to sell refreshments or merchandise or offer for sale refreshments or merchandise in any park without the written permission of the director or a concession contract with the city.

12.20.070 Destruction of park property.

It is unlawful to willfully destroy, mutilate or deface any structure, monument, statue, fountain, wall, fence, railing, vehicle, bench, shrub, tree, lawn or grass, plant, flower, lighting system or sprinkling system or other property lawfully in any park or ballfield. No foreign matter, such as sawdust or sand, may be added to any field in order to use the field in wet weather without the consent of the superintendent.

Deleted: wilfully

12.20.080 Dogs.

It is unlawful to suffer or permit any dog to run at large in any park or to enter any lake, pond, fountain or stream therein. For the purposes of this section, dogs must be on a leash or tether and under control of a responsible person while in any park. Further, it is unlawful to permit any dog or animal to defecate in any park in violation of KMC 6.04.230.

12.20.090 Fires.

It is unlawful to build any fire in any park except in an area designated and so posted by the director.

12.20.095 Noise.

(1) It is unlawful for any person to use, operate, or play or permit to be used, operated or played in any park any radio, tape player, television, musical instrument, record player or any other machine or device producing or reproducing sound at a volume that is audible at a distance over 30 feet therefrom, except pursuant to a permit issued by the director or for events provided or sponsored by the city.

(2) Subject to park availability, the director may grant or grant with conditions a permit for an exception to subsection (1) of this section if the use of the sound amplification equipment:

- (a) Will not constitute a public nuisance;
- (b) Will not endanger the public health or safety;
- (c) Will not endanger public property; or
- (d) Is associated with an event that is open to the general public.
- (e) Complies with KMC 9.08.010

12.20.100 Hours.

All city parks shall be open from 6:00 a.m. to dusk, except the skate park which shall be open from 7:00 a.m. to dusk. It is unlawful to enter or be in any park between dusk and 6:00 a.m. of any day, except when any park is opened between such hours by the director for a special occasion; provided, this section shall not prohibit persons from simply passing through any park.

12.20.110 Interference with city employees.

It is unlawful for any person to interfere with or in any manner hinder any employee or agent of the city while performing their official duties.

12.20.120 Intoxicating liquor.

It is unlawful to consume in any park any whiskey, wine, beer or other intoxicating liquor except as may be permitted under a license or permit issued by the State Liquor Control Board and authorized by the city council.

12.20.125 Tobacco and cannabis prohibited.

The smoking of tobacco or cannabis products is prohibited in all city parks except that smoking of tobacco is allowed in designated areas. The designated areas where tobacco use is allowed shall be the parking areas within the city parks and such other areas as the director may designate by posting signage.

Deleted: use

12.20.130 Littering.

It is unlawful to throw any refuse, litter, broken glass, crockery, nails, shrubbery, trimmings, junk or advertising matter in any park or to deposit any such material therein except in designated receptacles.

12.20.140 Racing.

It is unlawful to engage in, conduct or hold any trials or competitions for speed, endurance or hill climbing involving any vehicle, boat, aircraft or animal in any park.

12.20.150 Signs.

It is unlawful to place or erect any sign board, sign, billboard or device of any kind for advertising in any park without the prior consent of the park board. It is unlawful to post any other sign, decoration or erect any structure in any park without the prior consent of the park board.

12.20.155 Skate park rules.

1. This facility is used by both experienced and inexperienced skaters. Serious injury or death may result from being hit by a skateboard, falling or colliding. The City of Kelso does not assume responsibility for injuries. SKATE AT YOUR OWN RISK! This skate park is NOT supervised.
2. The use of protective equipment, including helmets, knee and elbow pads, and wrist guards, is strongly recommended.
3. Do not litter.
4. Alcohol, tobacco products, and illegal substances are prohibited.
5. Glass containers are prohibited.
6. Modifications to skate park structures are prohibited.
7. Addition of any obstacles or other structures is prohibited.
8. Motorized vehicles are prohibited.
9. Spectators in the skating area are prohibited.
10. Skating in parking area or areas outside the skating area is prohibited.

Officials of the City of Kelso shall have the authority to eject from the park any person engaging in unlawful behavior on park property, and may further eject any person from returning to the park for a period of seven days. Any person in violation of a trespass order shall be guilty of criminal trespass in the second degree, subject to Kelso Municipal Code 12.20.

In case of an emergency – call 9-1-1.

For maintenance issues – call (360) 577-7119.

12.20.160 Solicitation.

It is unlawful for any person to act as a peddler or solicitor, or sell or offer for sale any merchandise or service, or to seek or solicit donations or operate or use any loudspeakers in any park without a written permit issued by the city.

12.20.170 Sports.

It is unlawful to practice or play golf, baseball, softball, football, archery, soccer, hockey, tennis, badminton or other games of like character or to hurl or propel any airborne or other missile in such a manner as to interfere with other park users, except in those areas designated for such usage by the director

12.20.180 Watercraft.

It is unlawful to have, keep or operate any boat, float, raft or other watercraft in or upon any slough, river or creek within the limits of any park, or to land the same at any point upon the shores thereof bordering upon any park, except at places set apart for such purposes by the board and so designated by signs and except in a case of an emergency.

12.20.190 Weapons and fireworks.

Fireworks, bows, arrows, and slingshots are prohibited in any park. It is unlawful to shoot, fire or explode any firearms, fireworks, firecracker, torpedo or explosive of any kind or to shoot or fire any air gun, BB gun, pellet gun, bow and arrows, or use any slingshot in any park; provided, the proper authorities, with the consent of the director of parks, may issue permits for use of safe and sane fireworks in specified areas where fire hazards will not be increased and where the use of the fireworks will be under proper supervision and fireworks displays may be permitted upon securing of a proper permit pursuant to state law and other city ordinances; provided further, this section shall not prevent establishment in any park of a properly designated archery range or course.

Deleted: Firearms

Deleted: f

Deleted: air rifles, BB guns, pellet guns

Deleted: carry any firearms or

12.20.200 Vehicle operation.

It is unlawful to ride or drive any bicycle, motor vehicle, horse or pony over or through any park except along and upon the park drives, parkways, park boulevards and/or appropriately marked paths; or at a speed in excess of fifteen miles per hour, or to stand or park any vehicle except in areas designated and posted by the director. Any car parked in an area not designated by the director for parking, or otherwise parked in violation of this chapter or in such a way as to obstruct traffic, or any car which is apparently abandoned in any park, may be summarily removed and impounded upon order of the director.

12.20.210 Violation—Penalty.

Violation of or failure to comply with the provisions of this chapter shall constitute a misdemeanor and be punished as provided in the ordinances of the city.

12.20.220 Violation—Prosecution.

Anyone concerned in the violation of this chapter, whether directly committing the act or omitting to do the thing constituting the offense, or who aids or abets the same, is and shall be a principal under the terms of this chapter and shall be proceeded against and prosecuted as such.

SECTION 3. SEVERABILITY. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of _____, 2013.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: _____

Kelso Parks & Recreation Division

1606 Tam O'Shanter Way

P.O. Box 819

Kelso, WA 98626

Ph: 360-577-7119 Fax: 360-423-6591



Park Board Meeting

December 20, 2012

Call to Order:

Scott DeRosler called the meeting to order at 7:01 p.m. at City of Kelso City Hall Council Chambers, 203 S. Pacific Ave.

Those present were as follows:

Park Board Members

Scott DeRosler

Jerry Phillips

Bob Smith

Dan Jones

Staff

Tim Macklin, Parks Lead

Nina Caulfield, Recording Secretary

Excused Absence

Pamela Jo (PJ) Enbusk

Also In attendance:

Gary Archer, City of Kelso Council Member

Approval of Minutes:

MOTION: Jerry Phillips made the motion, seconded by Dan Jones to approve the minutes of November 15, 2012. Motion carried, all in favor.

Business:

1. Park Code Updates Ordinance

Upon review of the proposed updates, Dan requested some changes to the weapons and fireworks section. He did not like the total removal of all mention of firearms in Section 12.20.190 of the Kelso City Code. He stated how RCW 9.41.300 allows the restriction except for the people that have concealed pistol licenses and those who are required to carry for their job. There are a couple of exceptions to that, that should be added to the code rather than removing it all together. Firearms are prohibited except how it reads in RCW 9.41.300 section 2. Including the showing and demonstrating of weapons and firearms.

Jerry agrees that the proposed update is rather vague.

Scott spoke to the fact that we are still a rural hunting and fishing community.

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Bob told a story of a man out of control in the park a few years back and how even if he had a concealed weapon permit, he shouldn't have been able to carry in the park due to his mental state. He doesn't agree that there should be exceptions.

Dan explained that the change has been made because the City's cannot say no to firearms. However, it should read just like the RCW, and restrict it to how that says to.

Dan made a motion to amend 12.20.190 to reflect the limitations of RCW 9.41.300. Jerry seconded. Motion lost with Dan and Jerry in favor and Bob and Scott opposed.

Dan made a motion to accept the Park Ordinance updates as a whole. Bob seconded. Motion carried with Bob, Scott, and Jerry in favor and Dan opposed.

2. Update on League Agreements – Tim Mackin

Tim explained that the league agreements are in place to lease the fields. The fees involved have included a deposit for water and sewer charges. Due to differences in usage, and to do away with the management of those deposits, it has been proposed that each league create and manage their own water/sewer accounts. They will be required to pay their own bi-monthly bill, and manage their turn-ons and temporary turn-offs for each season. Sewer fees would not be charged on the irrigation meters. This would also give the leagues the ability to manage their water usage, which could provide a cost savings.

Tim stated that the lease fees, not including water/sewer deposits, for each league are \$1000 except for the Soccer Club, \$450, and the Boxing Club, \$250. Included in those fees are the costs of park maintenance (mowing, parking lot, restroom supplies, and garbage) and electricity. Total electrical bill for Tam O'Shanter Park for the past twelve months was \$25,263.83. Minus the combined cell towers usage of \$8928.24, it shows a net usage of \$16,335.59. The total income for the park is only \$3700 from the lease agreement fees. That leaves a \$12,635.59 balance to come out of the general budget just to cover the electricity bill alone.

Tim brought up a thought, about drawing a big circle around the park and perhaps imposing a fee to the businesses that benefit from the crowds the tournaments bring in to help offset the cost to the park.

Scott agrees. In one Girls Softball season alone, the Red Lion brought in \$53,000 from tournament lodging revenues. That was many years ago, and the tournaments have exploded in size since then. It would be hard to draw the circle, because Longview and Kelso benefit through their restaurants and stores as well.

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Scott had requested a copy of the Lodging Tax distribution for this year. He questioned how much revenue was generated by the tax as well. It was determined that this year the projected revenue is set to be \$135,000. Discussion followed.

Jerry expressed his appreciation for the City in subsidizing the electric charges and how the water/sewer bills will not be that big, and shouldn't be a problem - although he understands both sides of the issue.

Tim believes, from past history, the bills should average \$130 every two months and could be less with better water management and closer monitoring. The other option, to having the leagues manage their own water/sewer accounts, would be to have an increase the league fees.

Bob made a motion to approve the new lease agreements, not requiring a water/sewer deposit, but requiring the leagues to create and manage their own water/sewer accounts. With a recommendation from the Park Board that there will not be a deposit required for the new account leagues. Dan seconded. Motion carried with Scott, Bob, and Dan approving and Jerry abstaining.

3. Parks Updates -- Tim Mackin

- a. Tons of limbs and leaves.
- b. Pretty quiet as of late except for repairing some vandalism to the picnic tables. Park is pretty much shut down for the winter.

Meeting adjourned at 8:16 pm.

Approved:

Scott DeRosier

Tim Mackin, Parks Lead

AGENDA SUMMARY SHEET

Business of the City Council

City of Kelso, Washington

SUBJECT TITLE: Ordinance Adding Chapter
2.94 Credit Card Use to the Kelso Municipal
Code.

Agenda Item:_____

Dept. of Origin:_____ City Manager

For Agenda of:_____ February 19, 2013

Originator:_____ Steve Taylor

PRESENTED BY:

City Attorney: Janean Parker

Steve Taylor

City Manager: Steve Taylor

Agenda Item Attachments:

Ordinance

"Exhibit A" KMC 2.94 Credit Card Use

SUMMARY STATEMENT:

The City uses credit cards for the purchase of goods and services as well as allowable travel expenses for employees and city officials. KMC 2.94 Credit Card Use establishes and codifies procedures for issuing, using, and maintaining accountability for city credit cards. The ordinance helps the City comply with applicable state law and auditor requirements.

RECOMMENDED ACTION:

Move to approve the Ordinance adopting KMC 2.94 Credit Card Use on first reading.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON ADDING A
NEW CHAPTER 2.94 TO THE KELSO MUNICIPAL CODE ESTABLISHING
PROCEDURES FOR THE USE OF CITY-ISSUED CREDIT CARDS BY CITY
OFFICERS AND EMPLOYEES**

WHEREAS, the City Council finds the use of credit cards allows for the efficient operation of the City when purchasing goods, supplies and other items from vendors, as well as, charging expenses incident to authorized travel; and

WHEREAS, RCW 43.09.2855 and RCW 42.24.115 authorize the use of credit cards for governmental purchases and expenses incident to authorized travel provided the City adopts a system relating to the distribution, authorization, credit limits, payment and control of the use of such credit cards.

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. That Kelso Municipal Code 2.94 is hereby adopted as set forth in Exhibit A, attached hereto and hereby incorporated:

SECTION 2. SEVERABILITY. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of

_____, 2013.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Chapter 2.94

CREDIT CARD USE

Sections:

2.94.010 Definitions.

2.94.020 Issuance, use and control of credit cards.

2.94.010 Definitions.

As used in this chapter, the term "credit card" means a card or device issued under an arrangement pursuant to which the issuer (credit card company) gives to the card holder (the City) the privilege of obtaining credit from the issuer.

2.94.020 Issuance, use and control of credit cards.

The City adopts the following system for the issuance, use and control of credit cards by City officials and employees.

A. The finance director is authorized to obtain City credit cards under the following system, which provides for the distribution, authorization, control, credit limits and payment of bills through the use of the credit cards by City officials and employees.

1. Issuance and Use. Credit cards may be issued to the City of Kelso and used by City officials and authorized employees for purchasing goods, supplies and other items from vendors or incurring registration, training or travel expenses in connection with the performance of their duties on behalf of the City.

2. Authorization and Control. Upon authorization from the city manager or designee, City employees may obtain credit cards from the finance director who shall maintain a ledger of the individual receiving the credit card, including the date the card was received. City council members may obtain credit cards from the finance director for travel expenses incurred outside Cowlitz, Lewis, and Clark Counties, Washington. The finance director shall implement accounting controls to ensure the proper use of credit cards and credit card funds.

3. Credit Limits. The credit limit shall not exceed \$5,000 per card.

4. Payment of Bills. The finance director shall establish a procedure for the prompt payment of all credit card bills on or before the due date.

5. Unauthorized Charges. No official or employee shall use the City-issued credit card for non-City business purposes. No charge(s) shall exceed amounts established and available in the City budget.

6. Cash Advances. Cash advances on credit cards are prohibited.

B. Expenses incident to authorized travel may be charged to a City-issued credit card provided the official or employee returns to the City with credit card receipts in accordance with the City travel policies and procedures. Submission of a fully itemized travel expense voucher by the employee or officer is required. If certain credit charges are disallowed as a result of audit or City policy, such charge must be repaid to the City within thirty (30) days of the credit card billing date. The City shall have the right to withhold funds payable to the official or employee up to the amount of the disallowed charge including interest at the rate charged by the credit card company.

C. The city manager is authorized to revoke the use of any credit card issued and immediately require the surrender of the credit card. The city manager may deliver a revocation order to the credit card company with the City not being liable for any future costs incurred after the date of revocation.

D. The city manager is authorized to adopt any additional rules or policies necessary to implement the provisions of the ordinance codified in this section.

AGENDA SUMMARY SHEET

Business of the City of Kelso City of Kelso, Washington

SUBJECT TITLE:

Adopt an ordinance authorizing the interfund loan transfers from other City funds to the Arterial Street fund and providing for the repayment of such loans

Agenda Item: _____

Dept. of Origin: Finance

For Agenda of: 2/19/13

Cost of Item: _____

City Manager: Stephen Taylor

PRESENTED BY: Brian Butterfield

AGENDA ITEM ATTACHMENTS:

Proposed Ordinance

SUMMARY STATEMENT:

The City by separate action has authorized the settlement of a condemnation lawsuit for the furniture world property in the amount of \$2,500,000. Under the terms of the settlement agreement, the City is to pay these funds into the registry of the court by March 5. This acquisition is necessary for the West Main Realignment Project and the project is funded primarily through federal and state grant funds. The City will be reimbursed for the costs of this acquisition by federal grant funds. The funds are expected to be reimbursed within four (4) weeks of expenditure. As no one fund within the City has the necessary funds to cover the acquisition costs, an interfund loan is required to pool the necessary funds into the Arterial Street fund to make the acquisition. The proposed ordinance transfers funds to the Arterial Street fund as follows: \$700,000 from the General fund, \$800,000 from the G.O. Bond fund, and \$1,000,000 from the Equipment Reserve fund. The City will, upon receipt of the federal reimbursement, repay these loan amounts. During the period of the interfund loan, interest will be charged on the loan amounts.

FINANCIAL SUMMARY:

The ordinance will allow the transfer of \$2,500,000 to the Court to pay for the acquisition costs. These amounts will be reimbursed.

OPTIONS:

Do Nothing—if the City agrees to the settlement and is not able to transfer the funds, it could be in breach of the settlement agreement. Continuing litigation would likely result.

Other financing options like a Line of Credit or other borrowing could be evaluated, but the costs would be higher than the recommended option.

Authorize the temporary interfund loan to accommodate the acquisition.

RECOMMENDED ACTION:

MOVE TO pass an ordinance authorizing the interfund loan transfers from other City funds to the Arterial Street fund and providing for the repayment of such loans

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KELSO AUTHORIZING THE
TRANSFER OF FUNDS FROM OTHER CITY FUNDS TO THE ARTERIAL
STREET FUND AND PROVIDING FOR THE REPAYMENT OF SUCH
LOAN**

WHEREAS, the City finds that certain monies need to be expended from the Arterial Street fund to cover acquisition costs for property necessary for the West Main Realignment Project; and

WHEREAS, the City has been approved for grant funding for these acquisition expenditures and said funds are only available on a reimbursement basis; and

WHEREAS, the City desires to transfer monies from the General Fund, 2011 Limited Tax G.O. Bond Fund, and Equipment Reserve Fund to the Arterial Street Fund to cover the acquisition cost expenditures with the intent of repaying the various funds when said grant funds are received;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1 The City is authorized to transfer the sum of not more than \$2,500,000 total from each of the following funds in the amounts set forth here to the Arterial Street fund to cover the acquisition expenditures for the West Main Realignment Project:

\$700,000 from the General fund to the Arterial Street fund

\$800,000 from the G.O. Bond fund to the Arterial Street fund

\$1,000,000 from the Equipment Reserve fund to the Arterial Street fund.

SECTION 2 The City agrees to repay the each of the funds set forth in Section 1 in full from monies the City will receive from Grant Funds dedicated for the West Main Realignment Project. Interest shall be charged on said loan at the rate set by the Local Government Investment Pool (LGIP).

SECTION 3 This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of February, 2013.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED:

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE: Ordinance (2nd Reading)
amending KMC 2.04 City Council.

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: _____ February 5, 2013

Originator: _____ Steve Taylor _____

PRESENTED BY:

Steve Taylor

City Attorney: _____ Janean Parker

City Manager: _____ Steve Taylor

Agenda Item Attachments:

Ordinance

Attachment A – KMC 2.04 Amendment

SUMMARY STATEMENT:

Council previously provided staff with direction to amend the City Council Rules of Procedure and to change the commencement of regular Council meetings from 7:00pm to 6:00pm. The attached ordinance amends KMC 2.04 City Council to reflect the new meeting time and removes several sections that contain redundant and obsolete language, as well as procedures that are already addressed within the Council Rules of Procedure. No additional direction was given by Council when the item was presented for first reading on February 5th.

RECOMMENDED ACTION:

Move to adopt the Ordinance amending KMC 2.04 City Council.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KELSO AMENDING KELSO
MUNICIPAL CODE 2.04 CITY COUNCIL TO AMEND THE MEETING TIME
FOR REGULAR MEETINGS AND TO REMOVE CERTAIN COUNCIL
PROCEDURES**

WHEREAS, the City Council wishes to amend the commencement time for its regular meetings from 7 pm to 6 pm for the convenience and efficiency of those attending; and

WHEREAS, the City Council wishes to remove certain procedural provisions within the municipal code that are addressed elsewhere by the adoption and regular amendment of the Council rules and by doing so eliminate duplication and inefficiency;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. That Kelso Municipal Code 2.04 is hereby amended as set forth in Exhibit A, attached hereto and hereby incorporated:

SECTION 2. SEVERABILITY. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of

_____, 2013.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: _____

Exhibit A

Chapter 2.04 CITY COUNCIL*

Sections:

2.04.010 Election of councilmembers—Terms.

2.04.020 Eligibility requirements.

2.04.030 Compensation.

2.04.040 Meetings.

*Prior history: Ords. 2966 and 2971. Prior code Ch. 1.08.

2.04.010 Election of councilmembers—Terms.

A. In the election of city councilmembers, all seven shall be elected at large for four-year terms subject to the provisions of Kelso City Charter Section 2.01.

B. The four-year terms shall commence and terminate as provided in RCW 29.04.170.

C. The city council shall have the powers and authority granted to it in the Kelso City Charter. (Ord. 3279 § 2(g)–(i), 1995)

2.04.020 Eligibility requirements.

No person shall be eligible to hold elective office under the Kelso City Charter plan of government unless he shall have been a resident of the city for a period of at least one year next preceding his election, and a registered voter. Councilmembers are prohibited from holding other public office or employment as provided in Kelso City Charter Section 2.05(a). (Ord. 3279 § 2(j), 1995)

2.04.030 Compensation.*

A. Subject to Kelso City Charter Section 2.04, members of the city council shall be compensated at a rate of four thousand eight hundred dollars per year payable in twelve equal monthly installments.

B. In addition to the compensation provided for in subsection A of this section, the mayor shall be paid an annual salary of four thousand eight hundred dollars payable in twelve equal monthly installments.

C. The compensation herein provided shall apply to all members of the council to which it may constitutionally and legally be applied and shall be expanded to include ineligible members as they become eligible. (Ord. 3660 § 1, 2007; Ord. 3584 § 1, 2005; Ord. 3489 § 1, 2001; Ord. 3279 § 2(k)–(m), 1995)

*Code reviser's note: Ordinance 3660, which increased city councilmember compensation from three thousand six hundred dollars to four thousand eight hundred dollars, shall be in full force and effect on

January 1, 2008, for positions four, five, six, and seven of the city council and on January 1, 2010, for positions one, two and three of the city council.

2.04.040 Meetings.

A. The city council shall hold regular meetings on the first Tuesday and third Tuesday of each month, which meetings shall commence at the hour of 6:00 p.m. In cases where said regular meeting date falls on a holiday, the meeting shall be held on the next business day.

B. All meetings of the city council shall be held in the council chambers in City Hall or at such other place as the council may direct. (Ord. 3312 § 1, 1996; Ord. 3279 § 2(a)–(c), 1995)

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE:

A Resolution of the City of Kelso initiating the process to vacate portions of 7th Avenue, to the abutting property owners and setting a date for a public hearing.

Agenda Item: _____

Dept. of Origin: Public Works

For Agenda of: February 19, 2013

Cost of Item: _____

City Manager: Steve Taylor

PRESENTED BY:

David M. Sypher, P.E.
Public Works Director

AGENDA ITEM ATTACHMENTS:

Proposed Resolution
Sketch of proposed vacation area

SUMMARY STATEMENT:

As a part of the adopted realignment plan for the West Main Realignment Project, there is a portion of 7th avenue that is no longer to be used for street purposes. As a result, staff proposes vacating this portion of 7th avenue back to the abutting property owners. The City would, as a part of the vacation process hold back an easement (as allowed by state law) for the public utilities and services that may remain in the vacated area.

Under state law at RCW 35.79, the process for vacation is by petition of the abutting property owners (or a resolution of the legislative authority.) to initiate a vacation. Then a public hearing must be held on the vacation and the City may adopt an ordinance vacating the street or any part thereof. The proposed action is the first step in this process: the adoption of a resolution that initiates the street vacation process and sets the public hearing.

FINANCIAL SUMMARY:

Under the statute, the City may provide that the vacation does not become effective until the abutting property owners compensate the City for an amount not in excess of one-half of the appraised value. Because the City is the party initiating the vacation petition, because it no longer has a use for the right of way, we do not recommend assessing this fee to the abutting property owners or delaying the vacation until payment of such fee.

OPTIONS

Do Nothing. Under this option, this unused portion of the street would remain property of the city and subject to our control and responsibility for its use, repair, and maintenance.

Initiate the vacation process—under this option a hearing would be set to consider the value of vacating the property. Then by separate action, the City can consider the ordinance to vacate.

RECOMMENDED ACTION:

Staff recommends Council make a motion to adopt the Resolution initiating the vacation process for portions of 7th Avenue.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF KELSO, WASHINGTON,
INITIATING THE PROCESS TO VACATE PORTIONS OF 7TH
AVENUE, FORMERLY 7TH STREET TO THE ABUTTING
PROPERTY OWNERS AND SETTING A DATE FOR A PUBLIC
HEARING.**

WHEREAS, the City of Kelso seeks to construct the West Main Realignment Project to provide roadway improvements from the west city limits of Kelso at West Cowlitz Way to the west end of the Allen Street Bridge at 1st street and to realign a portion of West Main therein for improved traffic flow; and

WHEREAS, as a part of this construction a portion of 7th Avenue is no longer required by the City for street purposes; and

WHEREAS, pursuant to RCW 35.79, the City Council may initiate by Resolution a vacation procedure to vacate the right-of-way; and

WHEREAS, after adopting the resolution initiating the street vacation process, the City Clerk shall fix a time when the petition will be heard;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KELSO DO
HEREBY RESOLVE:

Section 1. The City hereby initiates the street vacation procedures set forth in RCW 35.79 and KMC 12.16 to vacate portions 7th Avenue legally described as follows.

Beginning at the southwest corner of said Block 8; thence N.72°42'34"W. along the westerly extension of the southerly line of said Block 8, a distance of 50.00 feet to the westerly line of said CATLIN'S 3RD ADDITION, said westerly line also being the westerly line of 7th Avenue W. (formerly 7th Street); thence N.17°09'33"E. along said westerly line, a distance of 142.80 feet to the southeasterly line of Cowlitz Way W. (SR 4); thence N.60°23'47"E. along said southeasterly line, a distance of 72.99 feet to the westerly line of said Block 8; thence S.17°09'33"W. along said westerly line, a distance of 196.09 feet to the Point of Beginning.

Contains 8,473 square feet, more or less.

Section 2. The City Clerk is directed to set a public hearing on March 19, 2013 on this petition for vacation of portions of 7th Avenue as set forth in Section 1. Furthermore, the City Clerk shall publish an official notice of the public hearing date and shall post a notice of the public hearing on this petition to vacate in three of the most public places of the City as required by RCW 35.79.020.

Section 3. The Public Works Department shall post prominent notices of the public hearing and the date of the hearing in close proximity to the portion of the right-of-way subject to the petition which shall be readily observable by the general public in the vicinity. The Public Works Department shall also provide written notice to owners of property within 300 feet of the subject right-of-way and distribute them to these owners as required in RCW 35.79.020.

ADOPTED by the City Council and **SIGNED** by the Mayor this _____ day of _____, 2013.

MAYOR

ATTEST/AUTHENTICATION:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

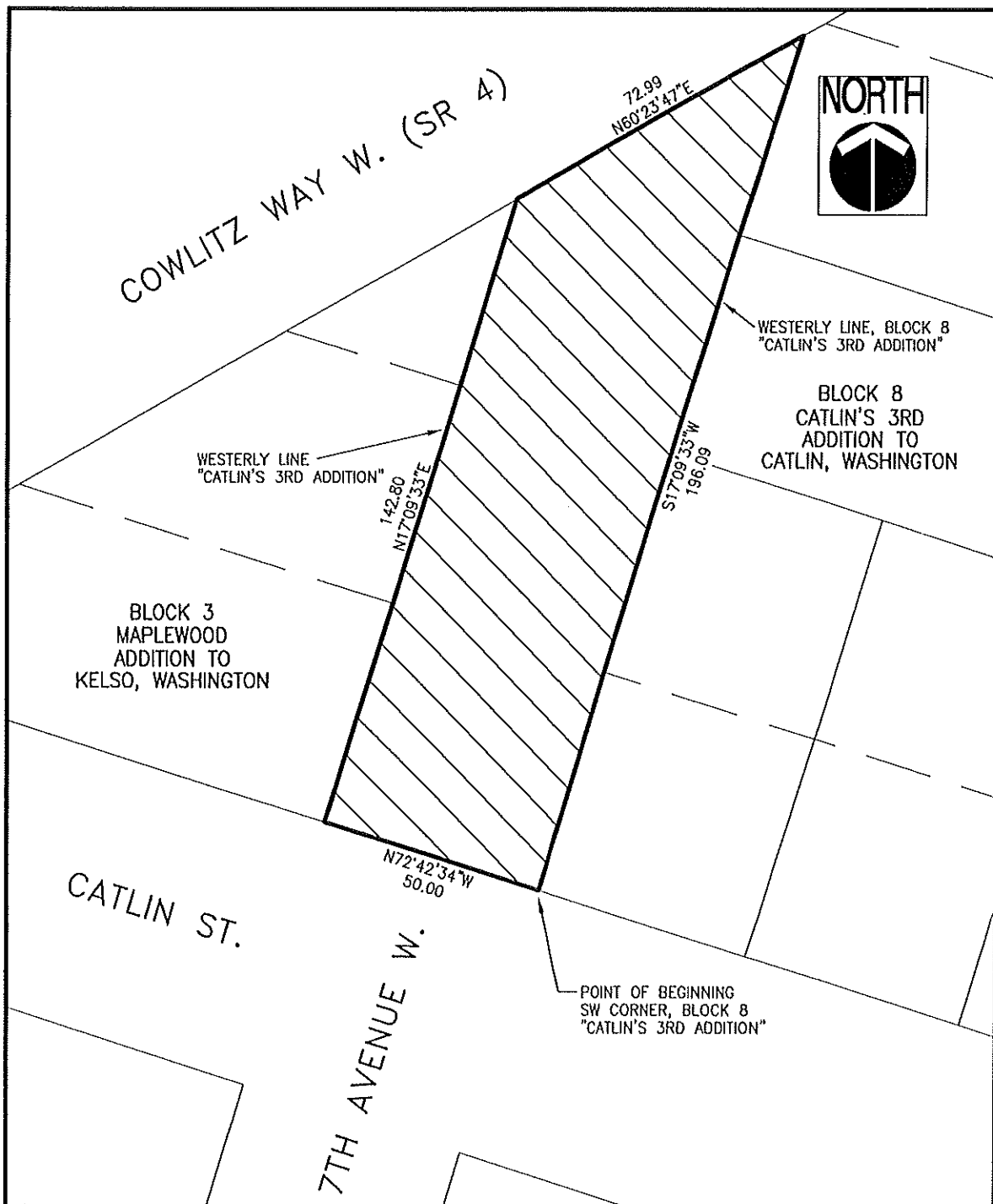


EXHIBIT A

PAGE 2 OF 2

7th AVENUE W. BETWEEN CATLIN STREET AND COWLITZ WAY W. (SR 4)

LOCATED IN SECTION 27, T.8N., R.2W., W.M.

CITY OF KELSO, COWLITZ COUNTY, WASHINGTON

FEBRUARY 5, 2013

AGENDA SUMMARY SHEET

Business of the City Council

City of Kelso, Washington

SUBJECT TITLE: Resolution Adopting New
City of Kelso Training and Travel
Reimbursement Policy.

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: _____ February 19, 2013

Originator: _____ Steve Taylor _____

PRESENTED BY:

Steve Taylor

City Attorney: _____ Janean Parker

City Manager: _____ Steve Taylor

Agenda Item Attachments:

Resolution

"Exhibit A" Training and Travel Reimbursement Policy

SUMMARY STATEMENT:

The City reimburses officials and employees for lawful travel expenses incurred when conducting business on the City's behalf. Various resolutions have been adopted by the Council over the years to define and regulate the types of travel expenses allowed, rules on the use of personal vehicles for travel, and per diem rates for meals. A significant amount of time is spent accounting for these expenses as well as processing reimbursements or credit card travel vouchers for employees. The policy is cumbersome, inefficient and in need of amendment.

The attached policy states the City's advocacy for employee training and defines allowable and non-allowable travel expenses as well as how travel expenses may be incurred, reimbursed, and processed for accountability. The per diem rate for meals reimbursement is replaced with allowing expenses that are "customary and reasonable." Department Heads will be responsible for monitoring travel expenses through their travel budgets and regular review of employee expense vouchers. The City's elected officials, City Manager, Department Heads, and Volunteers/Non-Employees eligible for reimbursement will all fall under this policy.

The resolution also repeals all earlier travel and mileage reimbursement resolutions adopted through the years.

RECOMMENDED ACTION:

Move to approve the resolution adopting the City of Kelso Training and Travel Reimbursement Policy.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
KELSO ESTABLISHING A POLICY REGARDING EMPLOYEE
TRAINING AND REIMBURSING CITY OFFICIALS AND
EMPLOYEES FOR EXPENSES INCURRED WHILE
TRAVELING ON CITY BUSINESS; AND REPEALING
PREVIOUSLY-ADOPTED RESOLUTIONS REGARDING THE
SAME.**

WHEREAS, the City Council wishes to promote and facilitate training and career education which meets the dynamic needs of the City; and

WHEREAS, it is appropriate to reimburse expenses lawfully incurred by City officials and employees while on travel status or conducting City business; and

WHEREAS, previous travel reimbursement policies have been adopted by City Council resolution and the City Council wishes to amend these policies for the efficient administration and conduct of City business.

NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO HEREBY RESOLVE
AS FOLLOWS:

SECTION 1. The City of Kelso Training and Travel Reimbursement Policy dated February 19, 2013, attached as Exhibit A, is adopted.

SECTION 2. Resolution Nos. 06-914, 96-735, 620, 590, 566, 417, 367, 320, and 137 are hereby repealed.

SECTION 3. This resolution shall be effective immediately upon its adoption.

ADOPTED by the City Council and **SIGNED** by the Mayor this _____ day of _____, 2013.

MAYOR

ATTEST/AUTHENTICATION:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT A

City of Kelso Training and Travel Reimbursement Policy

(Adopted by Resolution No. _____ February 19, 2013)

POLICY

The City promotes and facilitates training and career education which meets the dynamic needs of the City. Expenses lawfully incurred by City employees and officials while on travel status or conducting City business will be reimbursed. In the event of a conflict between this policy and a collective bargaining agreement currently in effect, the terms of the latter will prevail.

A. EMPLOYEE TRAINING

1. **Training Encouraged.** It is the policy of the City to encourage and coordinate training opportunities for employees and supervisors in order that services rendered to the City will be more efficient and effective. Employees are encouraged to continue their formal education through participation in educational programs off-duty or during non-working hours.
2. **Professional Organizations.** Employees who belong to professional organizations that promote individual professional growth, competence and effectiveness in functioning as City employees may be allowed to use work time to attend local, state, and national meetings subject to prior approval by the City Manager and budgetary limitations. Normally, attendance at a given conference, etc. is specifically itemized in the annual budget in order to facilitate approval.
3. **Approval.** Attendance at a training program is approved at the Department Head level, except as follows:
 - a) **Out-of-State Travel.** Attendance at a training program involving out-of-state travel by an employee requires approval by the City Manager prior to registration.
 - b) **Unbudgeted Training.** Attendance at training programs in excess of three days and which have not been anticipated in the budget requires approval by the City Manager prior to registration.
4. **Disputes.** Any dispute regarding eligibility or the level of reimbursement may be appealed to the City Manager for resolution.
5. **City-Sponsored Training.** City-sponsored and required training is generally arranged during regularly scheduled work hours. A Department Head may change the standard work hours to accommodate or require attendance at such training activities. Such required training is recorded as time worked.

B. TRAVEL AUTHORIZATION AND REIMBURSEMENT

This procedure applies to all City of Kelso employees, elected officials, volunteers, and other non-City employees entitled to payment of or reimbursement for expenditures. City employees and officers are entitled to payment of and reimbursement for lawful expenditures incurred on official City business.

1. **Travel Approval.**
 - a) **Eligibility.** Section C.1 does not apply to City Council members or to the City Manager.

- b) **Out-of-State Travel.** Out-of-state travel requires the prior approval of the City Manager or designee.
- c) **In-State Non-local Travel.** The time and mode of travel requires the prior approval of the employee's Department Head.

2. Travel Expense.

- a) **Allowable Travel Expense.** Allowed travel expenses include transportation, lodging, meals and other related expenditures, lawfully incurred by officers and employees of the City.
 - i. The meals and lodging are reimbursed at a cost deemed customary and reasonable.
 - ii. Tips are allowable expenditures, when they approximate 15% or less, unless the restaurant or service provider sets a mandatory group rate at a higher percent.
- b) **Non-Reimbursement or Prohibition of Travel Expense.** Unauthorized travel expenses include but are not limited to the following items, and no reimbursement will be allowed for the following:
 - i. Liquor
 - ii. Expense of a spouse or other persons not authorized to receive reimbursement under this policy
 - iii. Personal entertainment
 - iv. Theft, loss or damage to personal property
 - v. Barber or beauty parlor
 - vi. Airline or other trip insurance
 - vii. Personal postage
 - viii. Reading material except for that associated with official City business
 - ix. Personal telephone calls, except for a daily call of short duration to immediate family
 - x. Personal toiletry articles
 - xi. Valet or laundry service

Prohibited expenses charged to the City in error must be immediately reimbursed.

- c) **Conferences, Meetings, Seminars.**
 - i. Where a meal is included in a registration package, the cost of a meal eaten elsewhere is not reimbursable unless its purpose is to allow the conduct of City business.
 - ii. For meetings or seminars hosted by an organization for which the City pays membership dues, lodging is limited to the amounts that are reasonable and necessary based upon the government or conference rate offered by the host hotel(s).
 - iii. When an extra day's stay would significantly reduce airfare beyond the extra day's hotel and meals, the City Manager or designee may allow that extra day's expense.

- d) **Volunteers and Non-City Employees.** Non-City employees are entitled to payment of or reimbursement for expenditures under the following conditions.
 - i. **Official City Business.** Authorization by the City Manager or designee is included with the payment request, which identifies the name(s) of the individual(s), their official title or capacity as it relates to City business, the nature of the topic(s) discussed and the reason the expenditure is being reimbursed.
 - ii. **Recruiting Costs.** The City reimburses the expenses as described in C.2 a) and b) of candidates for certain employment positions, excluding elected officials, with advance approval of the City Manager. Expenses are to be documented and given to the recruiting official, who prepares the reimbursement claim. The interview and arrangements for transportation and lodging are made by the City Manager's Office or designee.
 - iii. **Reimbursement by another Agency.** The City does not reimburse an expense if that expense is reimbursable by another agency.

3. Payment of Expenses.

- a) **Use of City Credit Cards.** Use of City credit cards for travel is authorized in accordance with the City's most current Credit Card Use ordinance in effect.
- b) **Prepayment.** Examples of travel expenses subject to prepayment include registration fees, airline tickets, and certain lodging, where the cost is part of the registration package. Evidence of approval is needed.
- c) **Direct Billing.** Direct billing to the City for expenses such as meals and lodging is prohibited, unless authorized by the City Manager or designee. When authorized, direct billings still require a full explanation and itemization of expenses.
- d) **Travel Expense Voucher/Credit Card Voucher Usage Form.** Within five (5) working days on return from the travel, the employee/officer completes the Travel Expense Voucher/Credit Card Voucher Usage Form and submits it to the Finance Department enclosing any amounts due the City, or indicating the amount due the employee/officer. The actual amounts expended are written on the form and itemized receipts attached.
 - i. Itemized receipts for meals should contain a brief description of the purpose of the meal expense and identify all persons served if not otherwise identifiable.
 - ii. In the event an itemized receipt is not available, the employee or officer must submit a signed statement of the services received including certification that no unauthorized purchases were made. The statement must be approved by the appropriate Department Head. City Councilmembers and Department Heads shall submit statements to the City Manager or Finance Director for approval.

4. Use of Personal Vehicle.

- a) **Reimbursement.** Employees/officers are encouraged to use City vehicles whenever possible. Expenses for the use of personally owned vehicles in the course of City business are reimbursed at the then-current U.S. Government (IRS) rate. Employees that use their personal car for City business must carry at a minimum, the Washington State required coverage. Employee is responsible for maintaining this coverage.

- b) **Employee/Official Passengers.** Should more than one employee/official travel in the same personal vehicle on City business, only the individual owning the vehicle is entitled to reimbursement for transportation.
- 5. **Cancellation.** An employee/officer adheres to cancellation deadlines when canceling conferences, seminars, regional meetings, hotel, and airfare, or any other advanced payment or obligation made on his/her behalf. Except in the case of a personal or family emergency, or in the event the cancellation was a City business decision, expenses incurred by the City resulting from failure to conform to cancellation deadlines are the responsibility of the City employee or officer.

C. CITY SPONSORED TRAINING AND BUSINESS-RELATED EXPENSES

- a) Expenses related to City-sponsored training and City business where out-of-the-area travel is not required is authorized for reimbursement (i.e. onsite training functions, employment selection processes, or business activities with outside entities for economic development purposes). If the activity is scheduled to last longer than half of the business day and or naturally overlaps into a meal period, then it may be appropriate to provide a meal or refreshments to those in attendance. Such expenses are permitted with advance approval of the City Manager.
 - b) Business expenses and activities related to the City's Economic Development endeavors and activities with industry groups and private sector organizations fall under the direction of the City Manager. Expenses and reimbursement requests related to such activities (i.e. food, light refreshments, etc.) to be provided during said activities must be authorized in advance by the City Manager.
 - c) Travel and reasonable and customary meal expenses incurred by City employees/officers while conducting City-related business that occurs during or overlaps into normal meal schedules are eligible for reimbursement within the budgetary constraints of each department.
- D. Reasonable exceptions to this policy may be made by the City Manager in accordance with state law.